

people were killed when a school bus in which they were riding burned after being struck by another vehicle. Punitive damages were upheld in this case where the facts showed that the fuel tank failure was preventable and that Ford had the capacity and the opportunity to prevent it and failed to do so.

In another similar case, *Toyota Motor Company v. Moll*, 438 So. 2d 192 (Fla. App. 1983), a Toyota Corona was struck in the rear, causing its fuel system to rupture and three women were burned to death. The court found malice on the part of Toyota because Toyota knew of the defective design of the fuel system and, in wanton disregard of the safety of the purchasing public, continued to market their 1973 Toyota Corona.

In *Ford Motor Company v. Ammerman*, 705 N.E. 2d 539 (Ind. App. 1999), the Court of Appeals for the Fifth Circuit of Indiana imposed punitive damages, finding malice on the part of Ford, when a Bronco slid sideways and rolled over causing very serious injuries, with the court saying:

"It is apparent to this court that Ford was motivated by profits rather than safety when it put into the stream of commerce a vehicle which it knew was dangerous and defective. Ignoring its own data and advice of its engineers, Ford manufactured a vehicle prone to roll-over accidents in spite of being aware that such accidents result in more serious injuries than any other." 705 N.E. 2d at 562.

There are similar findings in the famous breast implant case, *Hopkins v. Dow Corning*, 33 F.3d 1116 (9th Cir. 1994), where they knew that long studies of implants were needed before the product could be marketed but concealed the information.

Similarly, in the *Dalkon Shield* case, *Tetuan v. A.H. Robins Co.*, 738 P.2d 1210 (Kan. 1987), thousands of women were presented with life-threatening and even fatal illnesses with the Kansas Supreme Court noting that the company deliberately and actively concealed the potential dangers of the product, thereby violating their duty to the public.

In the interest of time, I will summarize very briefly *Batteast v. Wyeth Laboratories, Inc.*, 526 N.E. 2d 428 (Ill. App. 1 Dist. 1988), where punitive damages were awarded where drugs were given to individuals knowing of their dangerous propensity.

Similarly, in the case of *Proctor v. Davis*, 682 N.E. 2d 1203 (Ill. App. 1997), a patient had a retina detachment and blindness following the adverse effects of a drug which were known to the manufacturer but not disclosed.

In the brief time available this afternoon, I have summarized a series of cases which are only representative—where products have been put in interstate commerce, where there was knowledge on the part of individuals who put those products on the market that they would subject the individuals to risk of serious bodily injury or

death, and, when death resulted, they were held liable, with the courts concluding that malice was established by the reckless disregard of the life of another.

When we have such a long sequence of cases, when we have the occasional imposition of punitive damages which are characteristically reduced and not really determinative or therapeutic anyway because it goes only after the shareholders as opposed to the individuals who have the ability to eliminate the problem, it is time there was adequate legislation on the Federal books to deal with this sort of problem.

I repeat, the culpability of Firestone or Ford has not yet been established, but it strains credulity that the key officials, based on what we heard yesterday in the hearing, did not know of these defects, and with the documents already at hand failed to take action to correct them. That is a matter to be determined.

But this legislation, if enacted, will certainly put the officials on notice that they cannot recklessly disregard human life for profits.

I yield the floor.

VICTIMS OF GUN VIOLENCE

Mr. KENNEDY. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today. September 7, 1999: Ignacio Barba, 25, Oakland, CA; Ernest Bolton, 48, Dallas, TX; Steven Celestine, 5, Miami, FL; Fareed J. Chapman, 19, Chicago, IL; Selester Edward, 21, Louisville, KY; Samuel Girouard, 18, Bellingham, WA; Allen Howe, 32, New Orleans, LA; Robert Jenkins, 29, Charlotte, NC; Leo Kidd, 28, Detroit, MI; Alvin Marshall, 45, Pittsburgh, PA; Stacy Stewart, 28, St. Louis, MO; William Thornes, 23, Washington, DC; Darryl Towns, 15, Detroit, MI; Dao Vo, 19, Seattle, WA; Bathsheba Woodall, 23, Philadelphia, PA.

One of the gun violence victims I mentioned was only five years old. Steven Celestine, a little boy from Miami, was shot and killed one year ago today by his own father, as his mother tried to protect him in her arms during an argument between the parents.

We cannot sit back and allow such senseless gun violence to continue. The deaths of this small child and the others I named are a reminder to all of us that we need to enact sensible gun legislation now.

HIGH ENERGY COSTS

Mr. GRASSLEY. Mr. President, I don't know whether other colleagues of mine have spoken today on this issue, but I would be surprised if some have not. I have not had an opportunity to hear what anybody else has said. It is with some dismay that we are, once again, faced this year with very high energy costs. The headline that I have in front of me from the Washington Post for today says, "Oil Prices Hit a Ten-Year High; As Americans Face Costly Winter, U.S. Pressures OPEC on Output."

In that headline, several things are considered: First of all, we have the highest worldwide energy prices since the gulf war, and the war was responsible for the high oil prices at that particular time—not OPEC cutting back oil, not bad U.S. domestic energy policy. The other thing that hits us is that the consumer is going to end up paying for this. Both points highlight that this administration has been promising us an energy plan to deal with this crisis situation. Let me be clear on that—an energy plan not for the future but to deal with the immediate crisis.

I had an opportunity to write a letter to the administration earlier this summer asking them to put forth a plan to meet potential shortages of fuel oil, propane gas, and natural gas—all used in home heating—so the health of our seniors is not threatened when we get cold weather. I have not had a response to that letter. Nothing of substance has come from my request.

I had a chance during the month of July, when Senator LUGAR had a hearing before the Agriculture Committee with Secretary of Energy Richardson, to ask questions of Secretary Richardson, and put forth the necessity of his coming forward with just such a plan. Yet nothing has been forthcoming. I should say nothing but what the story in the Post reminds us of—that this Administration's energy policy seems to consist of either the President of the United States or the Energy Secretary getting down on hands and knees to OPEC countries—and they tend to emphasize dealing with the Arab nations on this issue—to please pump more oil, produce more oil, send more oil to the industrialized parts of the world, particularly the United States. That is all we are seeing at this point. That is all we saw last spring from this administration to get the price of energy down—begging the OPEC nations, and particularly the Arab oil-producing nations, to send more oil. That is their response to the crisis.

This prompts me to tell my colleagues what I hope I will be able to do tonight as we discuss the energy and water bill. Since I have not had a response to my request to the Energy Secretary when he was before the Senate Agriculture Committee, and since I have not had a response to my letter to the President, as well as a letter to the Energy Secretary, I will be offering an amendment that will ask the administration to get this plan that we have